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| 10/809,014      | 03/25/2004  | Savalas O. Colbert   | DC.1008US           | 7845             |

7590 08/07/2007  
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| EXAMINER |
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SAGER, MARK ALAN

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3714

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| MAIL DATE | DELIVERY MODE |
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08/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/809,014

Applicant(s)

COLBERT ET AL.

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-20 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

***Claim Objections***

2. Claims 4,8-9, 14-20 are objected to because of the following informalities: use of acronyms such a LCD, WiFi and IEEE without spelling out at first occurrence within each respective independent-dependent claim chain. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 4-5, 11, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ordonez (GB 2235325). Ordonez discloses board games (page 1-3, fig 1) teaching claimed features including processing circuit (fig 1), media reader (element 8-11), touch screen (element

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2, 7) and a display member as an LCD screen (element 2-5, 7), input and output interfaces including serial interface (element 16), a storage device (page 2, line 1-4).

5. Claims 1-2, 4, 6, 10-11, 14 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Wolinsky (7063619). Wolinsky discloses a method and apparatus teaching claimed features including processing circuit (abstract, 2:53-3:48, figs 1-12, esp. 8A-12, element 945), media reader (6:12-17, fig 5B), touch screen (fig12) and a display member as an LCD screen (2:53-3:48, 8:28-37, figs. 1-12), input and output interfaces including network interface such as cellular telephone (abstract, 2:53-3:48, figs 1-12, esp. 8A-12), a storage device (abstract, 2:53-3:48, figs 1-12, esp. 4-5B, 8A-12).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 13, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolinsky. Wolinsky discloses claimed apparatus (supra) but lacks foldable. However, it is

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notoriously well known as by Official Notice that some cellular phones are foldable so as to be further compact or reduced in size when not in use (similar as to lap top PC). Thus, it would have been obvious to an artisan at a time prior to the invention to add foldable as known to Wolinsky to further reduce size of device when not in use

9. Claims 6-10 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ordonez in view of either Shimamoto (4372558) or Wolinsky (7063619). Ordonez discloses claimed apparatus (supra) but lacks types of network interfaces claimed. Communication via network interface of either Ethernet, WiFi, IEEE 1394 or cellular between remote player apparatus is old in gaming. This is evidenced by vast numbers of remote computing device game play that has existed prior to invention. It is noteworthy that instant application appears to rely upon knowledge of an artisan of gaming and network gaming such as to gaming over a network via network interface in that no additional explanation or teaching of the particular claimed network interfaces is provided or required due to such network interface devices being conventional and their use common knowledge to an artisan. Thus, in so far as application relies on claimed network interface being so well known as to not require further explanation therein, this is deemed an admission of state of art with respect to claimed network interface device for remote communication. However network interface for remote communication of game apparatus is further demonstrated next. Shimamoto and Wolinsky each teach remote game play between players on game apparatus via a network interface. The particular network interface used does not distinguish patentably as further exemplified by either Shimamoto or Wolinsky communication means that is thus dependent upon particular network and design considerations, as conventional. Thus, it would have been obvious to an artisan at a time prior to the invention

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to add network interfaces, Ethernet, WiFi, IEEE 1394 or cellular telephone as taught by either Shimamoto or Wolinsky or as known to Ordonez to allow remote game play.

10. Claim 13, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ordonez in view of Hamilton (4569526). Ordonez discloses claimed apparatus (supra) but lacks foldable. However, it is notoriously well known as by Official Notice that some game boards are foldable so as to be further compact or reduced in size when not in use. Hamilton discloses an apparatus teaching foldable board game. Thus, it would have been obvious to an artisan at a time prior to the invention to add foldable as disclosed by Hamilton or as known to Ordonez to further reduce size of device when not in use

11. Claims 3, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ordonez in view of either Lee (6102397). Where die having raised members is a playing piece with pegs or other raised physical attribute to distinguish state, Ordonez discloses claimed apparatus (supra) including touch sensitive display (page 2) and use of playing pieces (page 1) in so far as a die is a playing piece but lacks one die having raised members. Use of playing pieces in a game board that reads physical coding for determining state of playing piece including a state of dice as taught by Lee (abstract, 2:31-5:14, 4:11-15, 46-56, fig 3, element 56). Thus, it would have been obvious to an artisan at a time prior to the invention to add one die having raised members as taught by Lee to Ordonez for determining state of playing piece by coded physical characteristic.

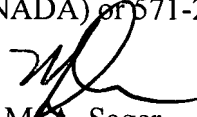
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*Conclusion*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
M. A. Sager  
Primary Examiner  
Art Unit 3714

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